

Montana Water Court
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FILED
08/11/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43B-0369-R-2023
Lambert, Kathryn
5.00

MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

CLAIMANTS: Scott E. Kremer; Beth Sirr; Michael A. Sirr

OBJECTORS: Beth Sirr; Michael A. Sirr

CASE 43B-0369-R-2023
43B 1090-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Michael Sirr and Beth Sirr filed an email with the Court requesting this claim be split into a claim for the Sirrs and a claim for Scott Kremer. It was deemed and docketed an objection to this claim. The February 7, 2023 Order Consolidating Case And Setting Filing Deadline

included red-marked abstract showing the flow rate and acreage apportionment based on the email and the Water Right Transfer Certificate documents and worksheets in the claim file. On May 9, 2023 the Sirrs filed their response endorsing the apportionment as represented on the red-marked abstracts. The June 1, 2023 Order Setting Show Cause Filing Deadline For Scott E. Kremer states:

However, nothing was filed by Scott E. Kremer. Therefore, it is ORDERED that the deadline is **June 15, 2023** for Scott E. Kremer to show cause in writing why the Court should not proceed with splitting this claim. If nothing is filed by this deadline, the Court will conclude Scott E. Kremer agrees with the split as requested by the Sirrs.

Nothing was filed. These documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

The Montana Water Court has jurisdiction over all matters relating to the determination of existing water rights. Section 3-7-224, MCA.

The Water Court may split a claim with multiple owners into separate claims upon request of all of the claimants prior to issuance of the final decree. Rule 26, W.R.Adj.R.

FINDINGS OF FACT

1. Claim 43B 1090-00 should be modified to represent only the Michael A. Sirr and Beth Sirr portion of the claimed right. Claim 43B 30160043 should be generated for the Scott E. Kremer portion of the claimed right.

2. Claim 43B 1090-00 should be modified as follows: 1) the ownership should be modified by removing Scott E. Kremer as a co-owner, 2) the flow rate should be reduced from 30.00 GPM to 27.50 GPM, 3) the maximum acres should be reduced from 18.00 acres to 17.80 acres, and 4) the place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
17.80	NWSE	5	9S	8E	PARK

3. The elements of claim 43B 30160043 should be same as 43B 1090-00 except: 1) the owner should be Scott E. Kremer, 2) the flow rate should be 2.50 GPM, 3) the maximum acres should be 0.20 acres, and 4) the place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
0.20	NWSE	5	9S	8E	PARK

CONCLUSION OF LAW

The Water Right Transfer Certificate documents and worksheets in the claim file, and the documentation filed by the parties provide sufficient information to split the claim in order to reflect the divided interests.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to split claim 43B 1090-00 as requested by the claimants. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes to 43B 1090-00 and the generation of split claim 43B 30160043 have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service via USPS Mail:

Scott E. Kremer
PO Box 492
Gardiner, MT 59030

Beth Sirr
Michael A. Sirr
1290 Story Mill Rd
Bozeman, MT 59715

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 1090-00 STATEMENT OF CLAIM
Version: 3 -- SPLIT POST DECREE
Status: ACTIVE

Owners: BETH SIRR
1290 STORY MILL RD
BOZEMAN, MT 59715

MICHAEL A SIRR
1290 STORY MILL RD
BOZEMAN, MT 59715

Priority Date: DECEMBER 31, 1914
Type of Historical Right: USE
Purpose (use): IRRIGATION
Irrigation Type: SPRINKLER/FLOOD
Flow Rate: 27.50 GPM
***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.
Climatic Area: 5 - LOW
***Maximum Acres:** 17.80
Source Name: SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER
Source Type: GROUNDWATER
Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSWNE	5	9S	8E	PARK
Period of Diversion:	MAY 15 TO SEPTEMBER 15					
Diversion Means:	HEADGATE					
Period of Use:	MAY 15 TO SEPTEMBER 15					

***Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	17.80		NWSE	5	9S	8E	PARK
Total:	17.80						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

1090-00

1092-00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 30160043 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: SCOTT E KREMER
PO BOX 492
GARDINER, MT 59030 0492

Priority Date: DECEMBER 31, 1914

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 2.50 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 5 - LOW

Maximum Acres: 0.20

Source Name: SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSWNE	5	9S	8E	PARK

Period of Diversion: MAY 15 TO SEPTEMBER 15

Diversion Means: HEADGATE

Period of Use: MAY 15 TO SEPTEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	0.20		NWSE	5	9S	8E	PARK

Total: 0.20